

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT HUNTINGTON**

**OHIO VALLEY ENVIRONMENTAL  
COALITION, INC, WEST VIRGINIA  
HIGHLANDS CONSERVANCY, INC.,  
COAL RIVER MOUNTAIN WATCH,  
INC., and SIERRA CLUB**

**Plaintiffs,**

**v.**

**CIVIL ACTION NO. \_\_\_\_\_**

**INDEPENDENCE COAL COMPANY, INC.,  
and JACKS BRANCH COAL COMPANY,**

**Defendants.**

**DECLARATION OF T. PAIGE DALPORTO**

I, T. Paige Dalporto, state and affirm as follows:

1. I have lived in Fayette County most of my life. I currently live in Charlton Heights, West Virginia located on the Kanawha River a short distance upstream of Smithers Creek.

2. I am a member of the Ohio Valley Environmental Coalition (OVEC). OVEC has a mission to organize and maintain a diverse membership dedicated to the improvement and preservation of the environment through education, grassroots organizing and coalition building, leadership development and media outreach. OVEC has focused on mining issues and is a leading source of information about environmental issues related to mountaintop removal coal mining in West Virginia.

3. As I understand it, Jacks Branch Coal Company holds NPDES permit WV0093912 which regulates water pollution discharges to Smithers Creek of the Kanawha River.

4. I also understand that Jacks Branch Coal Company has been violating the selenium discharge limits in the permit discharging to Smithers Creek. The selenium pollution coming from the mine greatly concerns me and decreases my enjoyment of the reaches downstream of the mine. If Jacks Branch Coal Company were to comply with the pollution limits in the permit, I would enjoy the streams more and be less concerned about impacts to the aquatic life and waterfowl living in and near the streams.

5. I understand that selenium is a bioaccumulative toxin that can cause serious problems for aquatic life and waterfowl. I am extremely concerned about the pollution including



selenium that mining has caused in Smithers Creek.

6. When I was a kid my father owned a hotel restaurant called the Rockette located in the town of Smithers near Smithers Creek. My friends and I would play around the mouth of Smithers Creek and look for crawdads, salamanders and other wild things. I enjoyed being close to nature and learning about the natural world.

7. I have a four year old son and I would like him to have experiences similar to those I had a child but I am afraid to let him near the creek. I am more and more concerned about water quality in the creek because of all the mining upstream. I still have hope that the creek will be cleaned up one day so he can one day experience Smithers Creek the way I did.

8. As an adult I still go to Smithers Creek as part of my routine activities. I go to church several times a month and intend to continue these trips in the future. The church is located right on the creek near Cannelton. Once I park my car to go into the church I often stop for several minutes to look at the creek and the wildlife around it. It helps me to calm my mind. Nature and the creek help define who I am and center me. I intend to visit this spot in the future.

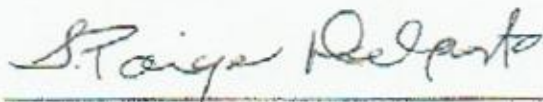
9. Sometimes when I go to church I bring my dog and walk her near the church along Smithers Creek. During the walks I enjoy being near the creek but my enjoyment is diminished by the pollution coming from the mines.

10. I have witnessed and am greatly saddened by the damage done to the natural world by mining in Smithers Creek. It is important to me as a photographer and poet to get away from people and commune with nature to reflect and relax but the impact of mining in this area has interfered with my enjoyment of the creek.

11. I wrote a book entitled, It's Still a Wonder Just Being Here, in 1999. It includes pictures of the Smithers area and poems about the area surrounding Smithers. I have also taken pictures of the 2001 flood damage in Smithers. The book helps to highlight and describe my connection to the Smithers area.

12. I have lived in the Smithers area for a long time. During that time I have gained many connections to the environment and to the creek that are integral to my life. It is abhorrent to me that my son won't experience similar things and that I have to warn him from going near the creek. I am dismayed at the damage done to our natural world and hope Smithers Creek will be cleaned up and protected from more pollution.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 31 day of August 2010.



T. Paige Dalporto